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March 20, 1985

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Honorable Crane Winton
1307 Mount Curve Avenue
Minneapolis, Minnesota 55403

Dear Judge Winton:

Enclosed please find Reilly Tar & Chemical Corporation's motion to compel deposition testimony and production of documents related to the EPA's Ambient Water Quality Criteria Document for Polynuclear Aromatic Hydrocarbons. This motion was not served earlier [the motion is dated March 15, 1985] because continuing discussions between the parties have hinted at a possible resolution. The brief chronology below highlights the current impasse.

In a letter dated March 13, 1985, I requested the United States to reconsider scheduling the deposition of either Jerry Stara or Roy Albert. Reilly initially sought to depose Mr. Stara because we understood Mr. Stara to be the record custodian of tapes, transcripts and other documents related to the above referenced criteria document.

In a discussion with David Hird last Thursday evening, Mr. Hird agreed to make Mr. Albert available for deposition. Mr. Hird was unwilling at that time, however, to decide whether the "tapes, transcripts and other documents" related to the preparation of EPA's Ambient Water Quality Criteria Document for Polynuclear Aromatic Hydrocarbons would be produced.

I spoke with Mr. Hird again yesterday morning to ascertain his final position regarding these documents. He stated that he was not sure what the United States' position was without further review. He later noted, however, that the United States would produce these tapes, transcripts and other documents if Reilly would produce those documents related to operations at Reilly's other plants.

DORSEY & WHITNEY

Honorable Crane ~~Winton~~
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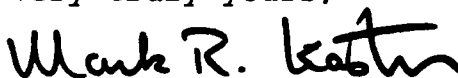
Reilly has already produced lengthy narratives related to operations at its other plants. Reilly requested and the United States agreed to this format after Reilly noted the heavy burden which accompanied a request of this magnitude.

The United States implies that there is a similar heavy burden in producing the tapes, transcripts and other documents relevant to the criteria document. The Court should not be fooled by this masquerade. Reilly has requested a discrete set of materials the subject of which is pivotal to the remedial issues of the case.

Reilly's position is that (1) the United States should have identified these tapes, transcripts and other documents in response to Reilly's previous discovery interrogatories; (2) Reilly became aware of the existence of these tapes, transcripts and other documents in January, 1985; (3) Reilly requested the deposition of Jerry Stara and the production of these tapes, transcripts and other documents in January, 1985, after learning of their existence; (4) the plaintiffs have affirmatively adopted the "PAH Criteria Document" in support of their proposed remedial program in St. Louis Park; (5) the tapes, transcripts and other documents represent materials within the public domain; and (6) the tapes, transcripts and other documents are discoverable under the Federal Rules because of their relevance to the subject matter of the litigation.

For these reasons, and as further elaborated in the attached motion, Reilly Tar & Chemical Corporation seeks the requested discovery. We would ask the Court to rule on this matter as soon as practicable so as not to impede the continuing efforts of all parties to prepare for trial.

Very truly yours,



Mark R. Kaster

MRK/am
cc: All Counsel